

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6020

BILL NUMBER: HB 1047

NOTE PREPARED: May 5, 2003

BILL AMENDED: Apr 24, 2003

SUBJECT: Small Claims Court Jurisdiction.

FIRST AUTHOR: Rep. Ulmer

FIRST SPONSOR: Sen. Long

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill has the following provisions:

(A) It makes the small claims jurisdictional limit \$6,000 across the state.

(B) It requires a person who files a small claims action to pay a small claims service fee of \$5 per defendant after June 30, 2005.

Effective Date: July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues: *Provision A:* The current small claims limit in all counties is \$3,000, except for Allen and Marion Counties in which it is currently \$6,000. Increasing this limit to \$6,000 will allow more litigants to file cases in small claims dockets rather than as civil plenary cases.

Revenue Loss: (see following table for illustration): The fee for a civil plenary case is \$100, of which \$70 is deposited into the state General Fund. The fee for a small claims case is \$35, of which \$24.50 is deposited in the state General Fund. Consequently, the state General Fund would receive \$45.50 less for each case that is filed as a small claims rather than as a civil plenary case.

The number of civil plenary cases with claims between \$3,000 and \$6,000 is not known, consequently the potential revenue loss is indeterminable and would not occur until FY 2006.

The following table illustrates the difference in filing fees and the effect on both state and local shares of fees for civil and small claims cases:

| | <u>%</u> | <u>Civil</u> | <u>Small Claims</u> | <u>Difference</u> |
|-------------|----------|-----------------|-------------------------|-------------------|
| Filing Fee | | \$100.00 | \$35.00 | |
| State Share | 70% | \$70.00 | \$24.50 | \$45.50 |
| Local Share | 30% | <u>\$30.00</u> | <u>\$10.50</u> | <u>\$19.50</u> |
| Total | | <u>\$100.00</u> | <u>\$35.00</u> | <u>\$65.00</u> |

Explanation of Local Expenditures: *Provision A:* Small claims divisions have very high volume and require considerable staff resources, particularly since the litigants often are not represented by attorneys and do not understand court procedures. Consequently, many courts have several staff people assigned to help litigants with filing claims, giving directions, and answering telephone calls. If the small claims caseload increases, courts with small claims jurisdictions may need to either increase staff or reassign staff from other court functions to accommodate the increased number of litigants.

Explanation of Local Revenues: *Revenue Loss - Provision A:* The local general funds would lose \$19.50 for each case that is filed as a small claims rather than as a civil plenary case.

A total of 202,344 small claims actions were filed in courts of record with small claims jurisdiction in 2001 outside of Allen and Marion Counties. A total of 71,236 civil plenary actions were filed in courts of record outside of Allen and Marion Counties in 2001.

Revenue Gain - Provision B would allow the clerk of the circuit court to collect an additional small claims service fee of \$5 for each defendant in a small claims case. The added revenue that would be collected by this bill would depend on the number of defendants, and the number of small claims cases filed by the Office of the Attorney General. (Cases filed by the Attorney General are exempt from this fee.)

The following shows the number of small claims cases filed in Indiana's trial courts between CY 1997 and 2001.

| <u>CY</u> | <u>1997</u> | <u>1998</u> | <u>1999</u> | <u>2000</u> | <u>2001</u> | <u>5-Year Avg</u> |
|---|-------------|-------------|-------------|-------------|-------------|-------------------|
| Number of Small Claims Filings in Indiana's Trial Courts | 199,663 | 209,913 | 141,719 | 215,852 | 230,753 | 199,580 |

The average number of filings per year for small claims cases was 199,580 for the five-year period.

The average number of respondents in small claims cases is not reported in published form. If the average number of defendants involved in small claims cases is between one and two, the added revenue could range between \$998,000 and \$1.9 M. The proceeds from this fee would be deposited in the county general fund. This fee becomes effective beginning July 1, 2005.

State Agencies Affected:

Local Agencies Affected: All courts of record with small claims jurisdiction.

Information Sources: *2001 Indiana Judicial Report*; Lilia Judson, Executive Director, Division of State Court Administration.

Fiscal Analyst: Mark Goodpaster, 317-232-9852